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84-1174 (1)

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CLERK

NUMBER _____

IN THE SUPREME COURT OF THE

UNITED STATES

ESTHER C. MONZELLO

Petitioner

VS

AUTOMOBILE CLUB OF SOUTHERN CALIFORNIA

Respondent

PETITION FOR A WRIT OF CERTIORARI TO THE

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

ESTHER C. MONZELLO

IN PROPRIA PERSONA

607 W Halyard

Port Hueneme, Calif. 93041

(805) 984-1931

Questions Presented For Review

Question #1

Whether Judge Edward Rafeedie, Judge Richard Gadbois, Chief Judge Manuel Real and Judge Cynthia Holcomb Hall, acting in collusion with each other and Respondent Automobile Club of Southern California, "grossly abused their discretion" and "committed prejudicial error" in denying Petitioner Esther C. Monzello's constitutional right under the Sixth and the Fourteenth Amendment to the United States Constitution to an impartial, unbiased Judge in Petitioner's proceedings before the Court by denying on January 3, 1983 pursuant to Order (App. A13 thru 15) signed by Judge Cynthia Holcomb Hall - Petitioner Esther C. Monzello's "Motion To Disqualify Judge Edward Rafeedie pursuant to Title 28 United States Code Section 455"?

Question #2

Whether Judge Edward Rafeedie acting in

collusion with Respondent Automobile Club of Southern California "grossly abused his discretion" and "committed prejudicial error" in abridging Petitioner Esther C. Monzello's constitutional right to a trial by jury under the Seventh Amendment to the United States Constitution and Title 29 United States Code, Section 626(c), Chapter 14, Section 7(c) and the Federal Rules of Civil Procedure 38(a) (App. D107) and the Declaration of Independence 1776:

a. by dismissing with prejudice Petitioner's "Complaint For Age Discrimination In Employment" pursuant to Fraudulent Order Re Dismissal Of Action And Award of Reasonable Attorney's Fees entered on May 31, 1983? (App. A8 thru 12)

Question #3

Whether Judge Cynthia Holcomb Hall acting in collusion with Respondent Automobile Club of Southern California "grossly abused her discretion" and "committed prejudicial error" in denying Petitioner

Esther C. Monzello's constitutional right to due process under the Sixth and Fourteenth Amendments to the United States Constitution:

a. by signing on January 3, 1983 Order on "Motion To Disqualify Judge Edward Rafeedie? (App. A13 thru 15)

b. by signing on April 25, 1984 Order Denying Plaintiff's Motion To Alter Record? (App. A19 thru 20)

Question #4

Whether Magistrate James W. McMahon acting in collusion with Respondent Automobile Club of Southern California "grossly abused his discretion" and "committed prejudicial error" in denying Petitioner Esther C. Monzello's right to due process and an impartial unbiased proceedings under the Sixth and the Fourteenth Amendments to the United States Constitution:

a. by threatening Petitioner with a United States Marshal at hearing February 1, 1983 (App. D5 TR 2/1/83) on Respondent's Motion

To Compel Plaintiff To Appear At Her Deposition and Produce Documents?

b. By ordering a "preliminary injunction" against Petitioner Esther C. Monzello and her personal counsel, Ben A. Monzello, her husband at the hearing on February 1, 1983 (App. D1 thru 40 TR 2/1/83) on Respondent's Motion For An Order To Compel Plaintiff To Appear At Her Deposition and Produce Documents?

c. By issuing Order Re Discovery Matters effective February 1, 1983 (App. D41 thru 48) containing a "preliminary injunction" on Respondent's Motion For An Order To Compel Plaintiff To Appear At Her Deposition and Produce Documents?

Question #5

Whether Judge Edward Rafeedie and Magistrate James W. McMahon in collusion with the Respondent Automobile Club of Southern California "grossly abused their discretion" and "committed prejudicial error" in denying Petitioner Esther C. Monzello's

constitutional right to due process under the Fifth, Sixth and the Fourteenth Amendments to the United States Constitution:

a. by Magistrate James W. McMahon denying Petititioner the assistance of her personal counsel, Ben A. Monzello, her husband at hearing on February 1, 1983 (App. D1 thru 40 TR 2/1/83) on Respondent's Motion For An Order To Compel Plaintiff To Appear At Her Deposition and to Produce Documents?

b. by Judge Edward Rafeedie denying Petitioner the assistance of her personal counsel, Ben A. Monzello, her husband by sustaining Order Re Discovery Matters (App. D41 thru 48) without a hearing by issuing Memorandum Opinion and Order entered on March 18, 1983 (App. D48 thru 59)?

c. by Magistrate James W. McMahon denying Petitioner the assistance of her personal counsel, Ben A. Monzello, her husband at her deposition scheduled for March 8, 1983

at hearing on February 1, 1983 (App. D20 thru 28 TR 2/1/83) and in Order Re Discovery Matters issued by Magistrate James W. McMahon and effective February 1, 1983 (App. D41 thru 48) on Respondent's Motion For An Order To Compel Plaintiff To Appear At Her Deposition And Produce Documents?

d. by Judge Edward Rafeedie denying Petitioner the assistance of her personal counsel, Ben A. Monzello, her husband at her deposition scheduled for March 8, 1983 by sustaining Order Re Discovery Matters (App. D41 thru 48) without a hearing by issuing Memorandum Opinion and Order entered on March 18, 1983 (App. D48 thru 59)?

e. by Judge Edward Rafeedie denying Petitioner the assistance of her personal counsel, Ben A. Monzello, her husband and threatening Petitioner and her personal counsel, Ben A. Monzello, her husband with jail and contempt at hearing May 23, 1983 (App. D62; D64; D80; D83 TR 5/223/83) on

Respondent's Motion To Dismiss Action With Prejudice And Award of Reasonable Attorney Fees?

Question #6

Whether Judge Edward Rafeedie acting in collusion with Respondent Automobile Club of Southern California "grossly abused his discretion" and "committed prejudicial error" in denying Petitioner Esther C. Monzello's constitutional right to due process under the Sixth and Fourteenth Amendments to the United States Constitution:

a. by signing on March 17, 1983 Memorandum Opinion And Order (App. D48 thru 59) on Petitioner's "Motion To Appeal Order Re Discovery Matters" in violation of Local Rule 7(a) (App. D106)?

b. by signing on April 7, 1983 Order in violation of Local Rule 7(a) (App. D106)? (Due to Judge Rehnquist's refusal to grant Petitioner the time requested Petitioner is unable to furnish this Court with a

copy of this signed order. The District Court's document number is #94.)

c. by threatening Petitioner Esther C. Monzello and her personal counsel, Ben A. Monzello, her husband with jail and contempt at hearing May 23, 1983 (App. D80; D83 TR 5/23/83) on Respondent's Motion To Dismiss Action With Prejudice And Award of Reasonable Attorney's Fees?

d. by signing on May 26, 1983 Order Re Dismissal Of Action And Award of Reasonable Attorney's Fees (App. A8 thru 12) on Respondent's Motion To Dismiss Action With Prejudice And Award of Attorney's Fees in violation of Local Rule 7(a) (App. D106)?

e. by signing and entering an informal unpublished Order Re Dismissal Of Action And Award of Reasonable Attorney Fees with a date certain for compliance (App. A8 thru 12) prepared by James A. Zapp Attorney for Respondent Automobile Club of Southern California and failing

to serve this final order on Petitioner and substituting for this final order service on Petitioner of a second fraudulent unsigned entered informal unpublished Order Re Dismissal Of Action And Award of Reasonable Attorney Fees (App. A1 thru 7) prepared by James A. Zapp Attorney for Respondent Automobile Club of Southern California with no date certain for compliance (App.D149 thru 151) in violation of Title 18 USC Chap 47, Section 1001? f. by signing on May 23, 1984 Order Denying Petitioner's Motion To Correct Record (App. A21 thru 23) in violation of Local Rule 14 (App. D-107)?

Question #7

Whether the Court of Appeals "grossly abused its descretion" and "committed prejudicial error" in affirming the "dismissal with prejudice" by the District Court of Petitioner's "Complaint For Age Discrimination In Employment" relying upon its own findings of facts in-

stead of reviewing the district court's findings under "clearly erroneous" standard pursuant to Memorandum filed August 8, 1984 (App. A24 thru 36)?

Question #8

Whether the Court of Appeals "grossly abused its descretion" and "committed prejudicial error" in denying Petitioner's constitutional right under the Sixth and Fourteenth Amendments to the United States Constitution to an impartial, unbiased review of Petitioner's Appeal in ruling on Petitioner's Appeal pursuant to Memorandum filed August 8, 1984 (App. A24 thru 36) prior to perfecting the record of the District Court by not holding an evidentiary hearing on Petitioner's charges of:

1. Malicious, Intentional and Deliberate Falsification of Record - (Transcript of January 3, 1983 by Judge Cynthia Holcomb Hall Presiding on Motion To Disqualify Judge Edward Rafeedie) -- By Judge Cynthia Holcomb Hall, United

States District Court, Central District.

2. Malicious, Intentional and Deliberate Falsification of Record - (Document #56 - United States District Court, Central District of California - Civil Minutes - General - Proceedings: Mandatory Status Conference - January 3, 1983) -- by Judge Edward Rafeedie, United States District Court, Central District.

3. Malicious, Intentional and Deliberate Falsification of Record - (Reporter's Transcript of Proceedings May 23, 1983 Judge Edward Rafeedie Presiding On Motion to Dismiss Action With Prejudice and For An Award of Reasonable Attorney's Fees) -- by Judge Edward Rafeedie United States District Court, Central District.

Question #9

Whether the California Department of Fair Employment and Housing denied Petitioner Esther C. Monzello her constitutional right

to due process and an impartial, unbiased proceeding before the Department under the Sixth and Fourteenth Amendments to the United States Constitution and Rules and Procedures of the Equal Employment Opportunity Commission which mandates the procedures that must be followed by the Department of Fair Employment and Housing Commission in their review of Petitioner's "Complaint of Age Discrimination In Employment" by denying Petitioner the right to cross-examine witnesses against her in a Fact Finding Meeting with Petitioner and Respondent and by informing Cynthia Martinez Staff Attorney for the Respondent that since part of the complaint was that Respondent did not have the appropriate Age Discrimination Notice posted as required by Title 29 United States Code, Chapter 14, Section 8 that she, Attorney Cynthia Martinez, was to be sure it was posted when the investigator came to check whether it was posted or not? FEPC File #FEP 80-81 B7-1953ae.

Question #10

Whether the Equal Employment Opportunity Commission denied Petitioner Esther C. Monzello's constitutional right under the Sixth and Fourteenth Amendments to the United States Constitution to am impartial, unbiased review of the California Department of Fair Employment and Housing findings by failing to determine that the Department of Fair Employment and Housing had failed to follow the procedures mandated for them to follow in considering Petitioner's "Complaint of Age Discrimination In Employment? EEOC File #09281277.

List of All Parties

Esther C. Monzello, Petitioner

Automobile Club of Southern California, Respondent.

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U. S. Department of Labor

Finding that back wages were due Receipt Form WH-58 Check #749206 June 19/81

Equal Employment Opportunity Commission: "Notice of Right to Sue" May 11/82

U.S. District Court (Orders)

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U.S Court of Appeals-9th Circuit (Orders)

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8/8/84 - Memorandum Affirmed; 8/8/84 Judgment filed and entered; 8/30/84 - Mandate Issued.

Statement of Grounds On Which Jurisdiction of This Court is Invoked:

The date of the judgment and order to be reviewed is MEMORANDUM of the Court of Appeals entered August 8, 1984. The date of the order extending the time for filing this Petition to December 6, 1984 is October 23, 1984. The Supreme Court file number is A-297. The jurisdiction of this Court is invoked pursuant to 28 United States Code Section 1254(1).

Constitutional Provisions, Statutes Ordinances and Regulations:

Declaration of Independence 1776 (App.D124 thru 127) Constitutional Provisions - Article VI (App.D128) Amendment V of the United States Constitution (App.D128 thru 129) Amendment VI of the United States Constitution (App.D129) Amendment VII of the United States Constitution (App.D129

thru 130) Amendment XIV of the United States Constitution (App.D130 thru 131) 28 United States Code, Section 455 (App. D131 thru 135) 28 United States Code, Section 44 (App.D136) 28 United States Code, Section 636 (App.D136 thru 138) 29 United States Code, Section 621 (App.D139 thru 141) 29 United States Code, Section 626(c) Chapter 14, Section 7(c) (App.D141) 29 United States Code, Section 627 (App.D142) Title 18 United States Code, Section 1001 (App.D142 thru 143) EEOC Compliance Manual #529 - 14.9 Fact Finding Conference (App.D143 thru 146).

Statement Of The Case

Introductory

Since "communication" is the basic problem in any human relationship and since petition for a "writ of certiorari" is an effort to "communicate" with Judges Burger, Brennan, White, Marshall, Blackmun, Powell, Rehnquist, Stevens and Ms. Judge O'Connor

and Respondent Automobile Club of Southern California, Petitioner Esther C. Monzello approaches this request for a "writ of certiorari" with a great deal of "qualms." First, Petitioner Esther C. Monzello does not mean to demean this Court by pretending to instruct Judges Burger, Brennan, White, Marshall, Blackmun, Powell, Rehnquist, Stevens and Ms. Judge O'Connor in the law. Second, Petitioner Esther C. Monzello does, however, have something to contribute as to the facts in this case since both Petitioner Esther C. Monzello and her husband Ben A. Monzello, her personal counsel, have been participants at every stage of all of the proceedings in the lower Courts and Administrative agencies. Third, since each step Petitioner Esther C. Monzello has taken has been a learning experience, Petitioner Esther C. Monzello has learned one thing certain to wit: "The most vulnerable person in any judicial proceeding is a person such as Petitioner Esther C. Monzello

appearing In Propria Persona." Petitioner Esther C. Monzello in resolving Petitioner's "qualms" about requesting a "writ of certiorari" came to one conclusion: "If what a person is doing is right that person can only be faulted if that person does not try."

At the first appeal level Petitioner Esther C. Monzello's "qualms" appeared when Petitioner realized that the appeal would involve Judge Cynthia Holcomb Hall and that this would mitigate against Petitioner Esther C. Monzello's appeal since Judge Cynthia Holcomb Hall at one time was the law clerk of Senior Judge Richard H. Chambers of the Ninth Circuit Court of Appeals.

At the second appeal level, namely a "writ of certiorari" Petitioner Esther C. Monzello's "qualms" first appeared and forcibly as Petitioner Esther C. Monzello realized that this request for a "writ of certiorari" involves Judge Edward Rafeedie and Judge Cynthia Holcomb Hall and

Frenchie Boy Smith and this would mitigate against Petitioner Esther C. Monzello since Judge Edward Rafeedie and Judge Cynthia Holcomb Hall are personal friends, cronies and proteges of Frenchie Boy Smith - an officer-employee of the Court to which this "writ of certiorari" is directed.

However, Petitioner Esther C. Monzello's greatest "qualms" appeared when Petitioner Esther C. Monzello realized that the greatest mitigating factors against Petitioner Esther C. Monzello's request for a "writ of certiorari" are:

a. Judge Sandra Day O'Connor is a personal friend of long standing of Judge Cynthia Holcomb Hall.

b. Judge Sandra Day O'Connor and Judge Cynthia Holcomb Hall were law students and occupied the same dormitory at Stanford University.

c. Judge Sandra Day O'Connor and Judge Cynthia Holcomb Hall are personal friends and proteges of Frenchie Boy Smith.

d. Frenchie Boy Smith is an "officer-employee of the Court to which this "writ of certiorari" is directed.

e. The decision of the Court of Appeals is "psychologically tainted" for the following reasons:

(1) On July 3, 1984 the Court of Appeals heard Petitioner's motion for an evidentiary hearing on the charges of: "Malicious, Intentional and Deliberate Falsification of Record - (Transcript of January 3, 1983 by Judge Cynthia Holcomb Hall Presiding On Motion To Disqualify Judge Edward Rafeedie) -- By Judge Cynthia Holcomb Hall, United States District Court, Central District."

(2) On August 1, 1984 before the Court had rendered a decision on Petitioner's motion Judge Cynthia Holcomb Hall was nominated to be a Judge of the Ninth Circuit of Appeals.

(3) On August 8, 1984 Judge Cynthia Holcomb Hall appeared before the Senate

Judiciary Committee for a hearing on this nomination.

(4) On August 8, 1984 the Court of Appeals filed and entered its decision denying Petitioner's motion for an evidentiary hearing.

Now, Petitioner Esther C. Monzello having addressed Petitioner Esther C. Monzello's "qualms" as a barrier to a request for a "writ of certiorari" addresses the subject of "images" as a barrier to "communication" with this Court and Respondent Automobile Club of Southern California namely:

a. How does Petitioner Esther C. Monzello perceive this Court's perception of Petitioner?

b. How does Petitioner Esther C. Monzello perceive the Respondent Automobile Club of Southern California?

c. How does Petitioner Esther C. Monzello perceive this Court?

In response to (a) above, Petitioner

Esther C. Monzello perceives this Court as perceiving Esther C. Monzello's request for a "writ of certiorari" as an insult to this Court's intelligence. How can Petitioner Esther C. Monzello who is not a member of "our priesthood" have the "gall" to ask to appear before this Court as a participant. Does not this "poor little pro se" realize it is a sacrilege for Petitioner Esther C. Monzello to ask to desecrate the chambers of this Court - the "Holy of Holies" - by requesting to appear and to participate in "our sacrament" - oral argument.

In response to (b) above, Petitioner Esther C. Monzello perceives the Respondent Automobile Club of Southern California as a "gang of goons" who shoved Petitioner Esther C. Monzello out the door, jumped on Petitioner Esther C. Monzello and when Petitioner Esther C. Monzello cried out for help kicked Petitioner Esther C. Monzello in the face.

In response to (c) above, Petitioner Esther C. Monzello perceives this Court as loaded with "intellectual schizophrenics" engulfed in waves of "intellectual senility and impotence." Petitioner Esther C. Monzello perceives this Court as a Court reigning over the "Holy of Holies" - the image of a priesthood wrapped in robes invoking the atmosphere of "Deity" - in other words - a "cult."

Last and not least Petitioner Esther C. Monzello perceives this Court as a tyranny surpassing the tyranny of the King of England who made it necessary for our forefathers to declare in the Declaration of Independence 1776:

Trial by Jury shall not be abridged.

Finally, Petitioner Esther C. Monzello is aware that the "system" to which Petitioner Esther C Monzello must respond is a system of "legalized anarchy" - that the discretion of a judge is just another synonym for "bias" and that the determina-

tion of the abuse of that discretion is made by brothers of their own priesthood "at their discretion." In other words the system is a "bottomless pit" that has no walls. Judges can reach into their "bible of cited cases" and sustain any opinion their bias may desire and as Petitioner Esther C. Monzello's husband says - "opinions are like assholes - everybody has one." It is archaic in a nuclear age.....But here goes - Petitioner will give it her best --

Conclusion of "Statement of The Case"

"Introductory"

Since Petitioner began preparation of this petition for a writ of certiorari Petitioner's "qualms" have been magnified by the following events: - On October 15, 1984 Petitioner found it necessary to request an extension of time for filing this petition for the following reasons:

a. The Memorandum of the Appellate Court dated August 8, 1984 was not received by

Petitioner until September 1, 1984 due to the fact that the Appellate Court mailed the Order to an incorrect address.

b. Petitioner is required to travel long distances to do the necessary legal research in preparing this petition.

On October 15, 1984 Petitioner requested of Judge Rehnquist a 60 day extension of time for filing this petition. Judge Rehnquist gave Petitioner only 30 days and gave no reason for reducing the request for 60 days to 30 days.

a. In researching Judge Rehnquist's background Petitioner found that Judge Cynthia Holcomb Hall is a personal friend and protege of Judge Rehnquist and of Judge Sandra Day O'Connor and that these three were law school classmates at Stanford University and at one time lived in the same "hometown"- Phoenix, Arizona.

Background Facts

This petition for a writ of certiorari is the result of the Equal Employment

Opportunity Commission having issued Petitioner Esther C. Monzello on May 11, 1982 and which was received by Petitioner Esther C. Monzello on June 29, 1982 a "right to sue in a federal court" and Petitioner having filed in the United States District Court, Central District, California on September 22, 1982 a "Complaint For Age Discrimination In Employment" pursuant to Title 29 United States Code Chapter 14 and this complaint having been dismissed with prejudice on May 31, 1983 by Judge Edward Rafeedie and Petitioner having filed with the Ninth Circuit Court of Appeals on June 22, 1983 an Appeal from the dismissal with prejudice by the district court on May 31, 1983 and the Court of Appeals having on August 8, 1984 affirmed the dismissal of the district court and denied Petitioner's motion for an evidentiary hearing on charges that Judge Rafeedie and Judge Hall had falsified the records of three hearings.

Reasons For Granting A Writ of Certiorari

What Is Edward (Blubberbutt) Rafeedie?

Rafeedie is described by a well known plaintiff's personal injury lawyer as a "bouncer"....a rough and tumble fellow who ought to be a bartender someplace (Dist. Doc.#88). Petitioner disagrees - Rafeedie's only qualification is "cleaning the shithouse in a bar." Rafeedie's background is comparable to that of a "juvenile delinquent" - "a college drop-out" who from age 9 - 18 was environmentally impacted by homosexuals, pimps, whores, whoremongers, gamblers, dope pushers etc. - you name it (Dist. Doc #88). Rafeedie's background is one impacted with an abnormal interest in "young boys" as evidenced by the following:

"Los Angeles Times - Tuesday, November 20, 1984 - THE STATE - A former Little League coach who pleaded guilty to sexually molesting nine boys was sentenced in Santa Clara County to 71 years in

prison after admitting that he sexually abused another 40 youngsters in offenses stretching back 17 years. Jeffrey Lee Gridley, will not be tried for additional offenses, Deputy Dist. Atty. Alan Nudelman said."

(a) A volunteer to chair the first indigent panel for misdemeanors (relating mostly to young offenders who are indigent) in Santa Monica. (b) A member of: Santa Monica Young Men's Christian Association; Pacific Palisades and Malibu Young Men's Christian Association. (c) Coach Pacific Palisades Young Men's Christian Association Basketball for four years. (d) Coach Malibu Boys Football. (e) Coach Pacific Palisades Boys Football. (f) Team Manager and Past President Malibu Little League. (g) Member Executive Board Great Western Council Boy Scouts of America. (h) Vice President 1975, 1976, 1977 Great Western Boy Scouts Council of America. (i) Chairman of Scout-O-Rama.

(Blubberbutt) Rafeedie is a strong and so called courageous and tough Judge only when dealing with the weak such as an individual appearing In Propria Persona and as evidenced by his ruling in 1984 where Rafeedie undercut the ruling of a fellow federal judge - Judge Terry Hatter - Central District - Judge Hatter had ordered a ban on deporting unaccompanied minors after reviewing the case of a 14-year-old boy who was deported to Mexico although he was a legal United States resident. Rafeedie lifted this ban on deportation of unaccompanied minor MEXICAN aliens. Immigration and Naturalization Service officials complained that the order had resulted in holding facilities filled with youths suspected of being illegal MEXICAN aliens. Rafeedie also evidenced a great deal of racism in this decision. Petitioner is quite certain that had these young illegal MEXICAN aliens been JEWISH - Rafeedie's decision would have been diff-

erent. This decision is also in keeping with his "ass-hole buddy" William Frenchie-Boy Smith's demand that the Courts adjudicate no rights to aliens. Rafeedie has a simple demented view of life. Civil law and criminal law are all the same - lawyer problems. Everything is either black or white and if you are not a Jew you are an Arab. No - Rafeedie is neither brave or courageous but an "intellectual coward" - a "political animal" a "hack" - a loner - a bouncer - an abnormal interest in young boys - a split (schizophrenic personality) - a racist - a man who at the Mandatory Status Conference had the appearance and mannerisms of having been on a "heroin-kick" for a month - completely out of control - irrational.

<u>The Who-What- Which-Where-When-Why and How Of William "Frenchie-Boy" Smith</u>

1. "Frenchie-Boy" Smith is a "slob" who has an obsession to be appointed to the next vacancy on the United States Supreme

Court. As a member of the Board of Directors of the Respondent, Frenchie-Boy Smith was actively involved in discriminating against older workers of the Respondent.

2. "Frenchie-Boy" Smith has wrapped himself in the "mantel" of the Attorney General of the United States but basically this character is a wheeling, dealing, sleazy, slimy, shady society-lawyer who on January 3, 1983 when the hearing on Petitioner's "Motion To Disqualify William Frenchie-Boy Smith's asshole buddy Edward (Blubberbutt) Rafeedie" was to be heard - Frenchie-Boy Smith was not in Washington D. C. tending his shop but was in the Los Angeles area wheeling and dealing at the Vintage Club at Indian Wells on New Year's Eve (App.D98 thru 101) . . . and who on March 7, 1983 when the hearing on Petitioner's Appeal Re Discovery Matters was to be heard by William Frenchie-Boy Smith's asshole buddy Edward (Blubberbutt) Rafeedie Frenchie-Boy Smith was not in Washington

D. C. tending his shop but was in Los Angeles abetting in "judge-shopping" with his "asshole buddies" (Blubberbutt) Rafeedie and "Old Blood and Guts" Harry V. (The Cat) Cheshire and promenading, wheeling, dealing at the "Le Bal Masque" - Costume Council Masked Ball (App.D102 thru 103).

3. "Frenchie-Boy" Smith is the one who on October 29, 1981 before the Federal Legal Counsel compared all Judges in the Federal System to an animal - an OCTUPUS - sleazy - slimy - without form or substance.

4. Let's take another view of this character "Frenchie-Boy" Smith -

a. "Frenchie-Boy" Smith when "caught with his pants down" returned $50,000 director's fees to Earle M. Jorgensen Co., Los Angeles in 1982 which he had accepted as a severance payment after becoming a member of President Reagan's Cabinet.

b. "Frenchie-Boy" Smith again "caught with his pants down" repaid the government for his wife's (the social butterfly) personal

use of a limousine assigned to the Justice Department.

c. "Frenchie-Boy" Smith also cost the taxpayer $683,727 on an around the world trip in 1982 under the pretext of discussing drugs, immigration and refugee problems. "Frenchie-Boy" Smith submitted no expenses for his wife "Jeanie-girl" who went along. "Frenchie-Boy" Smith described "Jeanie-girl" as playing a "Social-butterfly" role -- a very valuable role at social functions.

d. This "Creep" who hides behind the "mantel" of the United States Attorney General was held in CONTEMPT OF COURT on September 29, 1982 by United States District Judge William P. Gray for noncompliance with the court's February 12, 1982 order to pay $3,000 attorney's fee award and ordered to pay a penalty of $100 per day for every day payment was in arrears. The case in which his client had prevailed against "Frenchie-Boy" Smith was PARALYZED VETERANS OF AMERICA vs William F. Smith (Docket

Number 79-1979-WPG).

5. The real color of "Frenchie-Boy's" character is his relationship with his law firm - where he earned a yearly stipend of $355,000 - this firm has just been sanctioned by the Central District Court for destruction of evidence.

6. It is no hassle for <u>this</u> "Frenchie-Boy" Smith in abetting a little "judge-shopping" with asshole buddies "Old Blood and Guts" Harry V. (The Cat) Cheshire and Edward (Blubberbutt) Rafeedie.

7. "Frenchie-Boy" Smith would extend "judge-shopping" to the public domain by insisting on a particular "intellectually biased attitude" on the part of a person to be appointed to the Federal Judiciary.

8. "The Creep" William Frenchie-Boy Smith made his reputation as a specialist in labor law on behalf of management. "The Creep" William Frenchie-Boy Smith said that he has spent 30 years dealing with the Teamsters Union and the construction workers

union and a few other. "The Creep" Frenchie-Boy Smith built his reputation for accomplishing more outside the court-room than he did in it. "The Creep" is a specialist in "judge-shopping."

What Is The Respondent Automobile Club of Southern California?

The Respondent Automobile Club of Southern California is a front for Big banks and Big insurance companies whose primary business is selling insurance. The Respondent is a front for the most powerful "political Lobby" in California. No person can aspire to a judgeship in either a Federal or State Court without coming to grips with this Lobby. No Judge in a Federal or State Court can aspire to a promotion within their system without coming to grips with this "lobby". The Respondent further shows its contempt for the "judicial process" by maintaining a full time position of "court liason" the duty of the person being to "maintain effective judge-shopping" relations in

in all proceedings before the Courts. The Respondent's President is an attorney, a member of the "legal priesthood" -- "Old Blood and Guts (Harry V. "The Cat) Cheshire. On the Board of Directors for the Respondent in 1980 thru January 21, 1981 was William Frenchie-Boy Smith. Frenchie-Boy was also personal attorney for President Reagan. In "1980" "The Cat" and Frenchie-Boy Smith, initiated "policies" to replace older workers with younger workers due to continuing and increasing "cost problems" the Respondent was having and that has climaxed so that losses to the Respondent has increased in the Interinsurance Exchange to a net loss of $20,000,000 in 1983 and in the first two months of 1984 there was a loss of $13,000,00. Respondent was found in violation of Fair Labor Standard Act in June, 1981 (App.D90 thru 93). Respondent filed a false statement with the Employment Dev. Dept. in Oct. 1980 (App D93 thru 97).

Specific Reasons For Granting A Writ of Certiorari:

Petitioner Esther C. Monzello specifically demands that this Court grant a writ of certiorari since the affirming by the Court of Appeals of the District Court's "dismissal with prejudice" of Petitioner's "Complaint For Age Discrimination In Employment" and the denial by the Court of Appeals of an evidentiary hearing of the charges that Judge Rafeedie and Judge Hall falsified the record of three different hearings has so far departed from the accepted and usual course of judicial proceedings and so far sanctioned such a departure by the district court as to call for an exercise of this Courts power of supervision. Petitioner Esther C. Monzello specifically demands that this Court grant a writ of certiorari in this case since in the enforcement of Title 28 U.S.C. Sec 455 the general and detailed

rulings of the Court of Appeals for the Ninth Circuit are in disagreement with the general and detailed rulings for the 1st, 4th, 6th, 7th, 8th and 10th Circuits. See U. S. v Cowden (1976) CA 1 Mass) 545 F2d 257; U. S. v Carmichael (C.A.4th) 726 F2d 158 (1983-1984); U. S. v Norton (C. A. 6th) 700 F2d 1072 (1983); SCA Services v Morgan (C A. 7th) 557 F2d 110 (1977); U. S. v Poludniak (C.A. 8th) 657 F2d 948 (1981); U. S. v Ritter (C.A. 10th) 540 F2d 459 (1976); and Roberts v Bailar (C.A. 6th) 625 F2d 125 (1980).

Petitioner points out to this Court that this Motion to Disqualify (Blubberbutt) Rafeedie was not the "run of the mill" type of a motion to disqualify a Federal Judge. In this instant Rafeedie was a willing, knowing participant with his "asshole" buddies William (The Creep) Frenchie-Boy Smith and Old Blood and Guts Harry V. (The Cat) Cheshire in perpetrating this fraud on the Petitioner. When

he was notified of his confirmation he made the following statement (App.D103 thru 106) to the press: "You don't get an appointment like this without a lot of support and help from a lot of people," he said. "And having been through the process, it creates a strong sense of obligation to perform so as to never disappoint those people. In other words I feel I owe those people something and what I owe them is to be the most outstanding federal judge I can be. I'm going to shoot for either the first of October or certainly within the first week or two of October," he said. Taking the oath will allow Rafeedie to "go to work" but will be followed later by a formal investiture.

Petitioner points out to this Court that (Blubberbutt) Rafeedie committed himself to be on the clock by October 13th. Petitioner points out to this Court that the latest date that Respondent could file

his Answer to Petitioner's Complaint was October 13, 1982. Petitioner points out to this Court that the record shows that the Respondent in collusion with (Blubberbutt) Rafeedie and Manuel Real transferred this case from the calendar of Judge Malcolm Lucas to the calendar of (Blubberbutt) Rafeedie on October 13, 1982. Petitioner also points out to this Court that the son of the Judge who was so accommodating in assisting (Blubberbutt) Rafeedie in perpetrating this fraud upon the Petitioner by supposedly giving him his private oath - Judge Robert Kelleher - is a member of (The Creep) William Frenchie-Boy's law firm. Petitioner points out to this Court that (Blubberbutt) Rafeedie took his second formal (phoney) oath on October 29, 1982 - he wrapped himself in his new robes - my - my - whew...and was assigned his chambers- his private shithouse - he wouldn't have to pee wee with the lawyers anymore.

On June 1, 1980 this case of Age Discrimination In Employment had its genesis when Respondent forced Petitioner to take "early retirement." On October 29, 1980 the State of California Employment Development Department ruled over the objections of Respondent that Petitioner had been forced to retire/discharged for reasons other than misconduct (App.D95 thru 97). On February 6, 1981 Petitioner filed a complaint of age discrimination with the California Department of Fair Employment and Housing. On April 28, 1981 Petitioner and her personal counsel, Ben A. Monzello, her husband met with Joan Smiles and Edith Mercer consultants for the Department of Fair Employment and Housing and at this meeting Consultant Joan Smiles refused to permit Petitioner to meet with and cross-examine any witnesses against Petitioner. In addition Petitioner was never permitted to examine any documents presented by Respondent against Petitioner. One of the complaints

against the Respondent was that Respondent did not have the proper sign posted as required by 29 United States Code Section 627. Consultant Joan Smiles said to Attorney Cynthia Martinez for the Respondent that Attorney Martinez was to be sure the sign was posted when she - Consultant Smiles - came to check to see if the sign was posted. On November 24, 1981 the Department of Fair Employment and Housing issued Petitioner a "right to sue in a state court." In December 1981 Petitioner being required to exhaust every remedy before filing a court suit filed with the Equal Employment Opportunity Commission a request for a review of the California Department of Fair Employment and Housing's findings. On May 11, 1982 the Equal Employment Opportunity Commission issued Petitioner a "right to sue in a federal court" without having contacted Petitioner in any manner as to the sufficiency of the findings of the Department of Fair

Employment and Housing. Although this "right to sue in a federal court" was issued on May 11, 1982 it was not mailed to the Petitioner until late in June and received by Petitioner on June 29, 1982. After having received, on June 29, 1982 this "right to sue in a federal court" Petitioner contacted by phone Carl Phillips Director of Personnel for Respondent and asked to copy Petitioner's personnel file. Carl Phillips told Petitioner that Petitioner could do so only through the medium of a "subpoena." Petitioner told Carl Phillips that Petitioner would obtain a "subpoena" in order to copy Petitioner's personnel file for a federal suit. On August 24, 1982 Judge Edward Rafeedie was nominated to be a Judge of the United States District Court, Central District as part of "The French Connection." On September 22, 1982 Petitioner filed a timely "Complaint For Age Discrimination In Employment" in the United States

District Court (App.D108 thru 116). On September 22, 1982 Petitioner's "Complaint For Age Discrimination In Employment" was assigned to Judge Malcolm M. Lucas now a Judge of the Supreme Court of the State of California (App.D108) and assigned Magistrate James W. McMahon for discovery (App.D116 thru 117). On September 22, 1982 Judge Edward Rafeedie was confirmed on voice vote in the Senate without a hearing over the objections of Senator Howard Baker who wanted a hearing. On September 24, 1982 Judge Edward Rafeedie's commission was issued. On September 29, 1982 Petitioner filed a timely "Demand For A Jury Trial" (App.D117 thru 118). On September 29, 1982 Chief Judge A. Andrew Hauk took his Senior status before the time he was required to do so. On September 30, 1982 Judge Manuel Real was elevated to Chief Judge United States District Court, Central District as part of "The French Connection." On October 13,

1982 Respondent in collusion with Judge Edward Rafeedie and Judge Manuel Real filed Respondent's "Answer" (Doc #5) to Petitioner's "Complaint For Age Discrimination In Employment" and had transferred on October 13, 1982 Petitioner's "Complaint For Age Discrimination In Employment" from the calendar of Judge Malcolm M. Lucas to the calendar of Judge Edward Rafeedie (Doc #6) and Judge Edward Rafeedie acknowledging such collusion by issuing on October 13, 1982 Civil Minutes (Doc #118) stating that Petitioner's Complaint For Age Discrimination was transferred to him for all further proceedings. This was all done before Judge Edward Rafeedie had a courtroom or before he had taken his public oath of office which was taken on October 29, 1982. On October 27, 1982 Judge Edward Rafeedie filed a "Minute Order" setting up a Status Conference to be held November 22, 1982 at 2:30 P. M. in Chambers opposite Attorney's Lounge since

Judge Rafeedie did not have a courtroom and had not taken his public oath of induction (Doc #12). On October 29, 1982 Judge Rafeedie took his public oath of induction, received his robes and was assigned Courtroom "0". On November 1, 1982 Petitioner filed a "Motion To Vacate Order For A Status Conference" (Doc #16) since the order was not in compliance with the time requirements of Local Rule 9.3. On November 2, 1982 Judge Rafeedie vacated order for a Status Conference set for November 22, 1982 (Doc #17) and on November 3, 1982 Judge Rafeedie reset the Mandatory Status Conference for Monday, January 3, 1983 at 2:00 P.M in Chambers of Courtroom "0" (Doc #18). On December 3, 1982 Petitioner filed a "Motion to Disqualify Judge Edward Rafeedie" pursuant to the provisions of Title 28, U. S. Code Section 455 (Doc #50) based on the fact that the record shows that Frenchie-Boy Smith, Old Blood and Guts Harry V. (The

Cat) Cheshire and Judge Edward (Blubber-butt) Rafeedie are "asshole buddies" from way back and the collusion evidenced by the record that (Blubberbutt) Rafeedie was Respondent's Boy "Friday." On December 23, 1982 Petitioner filed a Change of Address (Doc #54) from 6431 Geyser Avenue, Reseda, California to P. O. Box 668, Port Hueneme, California. On December 30, 1982 Judge Rafeedie in collusion with Respondent had Chief Judge Manuel Real, part of the "French Connection", refer Petitioner's motion for a hearing on disqualification to Judge Cynthia Holcomb Hall, part of "The French Connection" (Doc #51). The notice of referral to Judge Hall was mailed on Thursday, December 30, 1982 to an incorrect address in order to prevent Petitioner from receiving the notice of referral before the hearing date of January 3, 1983. Since it was mailed on a Thursday, Friday being a holiday for the Court and Saturday being

New Years Day (with no mail delivery) Petitioner could not have received the notice even if it had been mailed to her correct address. Petitioner appeared on Monday, January 3, 1983 at the District Court. The following is a description of this "hearing".

The Court: This motion is unopposed. I have read your motion Ms. Monzello and I do not find a basis in it for a disqualification under the statute.

The Court: No oral testimony will be allowed.

Ms. Monzello: You mean this is it?

The Court: Yes.

The Court: Mr. Zapp do you wish to be heard?

Ms. Monzello: I object to him being heard because according to the Rules of Civil Proce - - -

The Court: He doesn't wish to be heard. (Hall jumps up) That will be all. Judge Rafeedie didn't know about this. (All

but in tears) (Disappears running through the door)

An examination of the record of the District Court shows that the Order issued by Judge Hall was prepared in the office of Attorney Zapp prior to the time of the hearing, January 3, 1983 and signed and filed by Judge Hall on January 3, 1983 in violation of Local Rule 7(a) (App.D106). The Order denying Petitioner's Motion for Disqualification signed and filed by Judge Hall had the stamp from Attorney Zapp's office - ORIGINAL - on the top of the order (App.D119). This stamp - ORIGINAL - is not a Court stamp - but a stamp from an attorney's office - and the only other place in the file CV 82-4930 that this ORIGINAL stamp shows on any document are on this Order of January 3, 1983 by Judge Hall (App.D119) and Judge Hall's Order denying Petitioner's Motion To Alter Record on April 26, 1984 (App.D123) and Respondent Automobile Club's "Opposition by

Defendant to Motion To Settle Differences As To Accuracy of Record - Transcript of January 3, 1983" (App.D120) and "Opposition by Defendant to Motion To Settle Differences As To Accuracy of Record - Document #56 - Status Conference" (App.D121) and "Opposition by Defendant to Motion To Settle Differences As To Accuracy of Record - Transcript of May 23, 1983" (App.D122) - all three documents of Respondent filed on April 20, 1984 with the identical ORIGINAL stamp on all these documents (App.D119 thru 123).

Although Judge Rafeedie was supposed to suspend all proceedings until the Motion To Disqualify Judge Rafeedie had been resolved, Judge Rafeedie had not done so and Petitioner reported to his chambers the same day, Monday, January 3, 1983 for the Mandatory Status Conference. On January 3, 1983 at 2:30 P.M. Petitioner Esther C. Monzello, her husband Ben A. Monzello, her personal counsel, Attorneys

for the Respondent Cynthia Martinez and James A. Zapp, Celeste Cooley, deputy clerk for Judge Rafeedie and an unnamed individual met with Judge Rafeedie in his chambers. Only three hours before Petitioner had appeared before Judge Hall and the Motion To Disqualify Judge Rafeedie had been denied. Petitioner had never appeared before Judge Rafeedie and until he was assigned to this case had never heard of him. As Petitioner and her husband entered the chambers Petitioner and her husband were shocked at the appearance of this man. This man was unrobed, was sitting on a stool slightly elevated from the other seats. This creep had the appearance of a "pile of soft shit" - no tie - unshaven - all of that blubber hanging over that stool - a complete physical disaster. For a United States Federal Judge to appear before Petitioner Esther C. Monzello, her husband Ben A. Monzello, Attorney Cynthia Martinez, who was pro-

professionally dressed and Attorney James A. Zapp who was immaculately dressed and groomed and before his deputy clerk and the other young lady -- was an insult. One sees men like this lying on the street when one walks from the Greyhound Bus Station to the Federal Building. This creep had the appearance of having been on a "heroin kick" for a week. This man excitedly demanded to know who Petitioner's husband was even before her husband could introduce himself. Petitioner replied that he was her husband and her counsel. This slobbering creep sharply rebuked Petitioner and said she could not have counsel. This slobbering creep continued to revile Petitioner as to whether she was representing herself, belittling Petitioner as to her inability to prepare a brief. Petitioner's husband intervened to try and "cool" the conversation by saying all they wanted was a fair trial and this creep responded in an irrational manner and sarcastically asked

"what was meant by a fair trial." This creep continued to jibber and jabber at Attorney James Zapp in a non-sensical way and finally slobbered up to the point where he set discovery, pre-trial and jury trial dates. Attorney James Zapp and Cynthia Martinez appeared to be humbly embarrassed and non-plussed. Outside the chambers Petitioner asked her husband about the dates set by Rafeedie and her husband said - "This guy is a first class "con artist" - you're never going to see a trial. What you were seeing in there was a con act."

As Rafeedie stated it took a lot of hard work on the part of a lot of friends, Frenchie-Boy Smith in particular, for him to get the job. Petitioner is sure he would have never made it on his merits. Not too long after this Mandatory Status Conference on January 3, 1983 Judge Rafeedie on <u>February 16, 1983</u> gave an <u>in depth</u> interview in his chambers to Reporter

Don J. DeBenedictis of the Los Angeles Daily Journal the official newpaper of the Federal District Court and the legal profession. His bias against Petitioner was evidenced by the following excerpt from this interview:

1. there is an ever-increasing tide of meritless lawsuits

2. that suits are filed as legal extortion to shake someone down

3. that suits are filed out of vindictiveness to make someone's life miserable

4. that suits make inflated demands

5. that a great percentage of lawsuits are meritless

6 that every lawyer contrives to fit his client into the facts of new case law

Judge Rafeedie in this interview specifically singled out employment discrimination cases such as Plaintiff (Petitioner) Esther C. Monzello's "Complaint" - Judge Rafeedie states:

1. one example of this is this newly created tort of wrongful discharge from employment

2. everybody that gets fired, if they're drunk on the job, if they've been caught with their hands in the till

3. no matter what, files a lawsuit

4. Rafeedie says federal courts get their share of baseless suits as well, specifically pointing to Title VII employment discrimination cases. Everybody files a lawsuit, he said, emphasizing each syllable to show his "disgust" even when the EEOC (Equal Employment Opportunities Commission) has reviewed the matter and determined there was no sustainable claim.

Judge Rafeedie not only reflected his bias against Petitioner but that he is an "intellectual midget" in as far as the proceedings before his court are concerned. By his remarks Rafeedie is certainly not aware that the proceedings in this Title VII Age Discrimination Case are DE NOVO

proceedings and must be treated as such.

When this evidence of bias, which was not available at the time Petitioner filed her "Motion To Disqualify Judge Edward Rafeedie" was presented to the Court of Appeals - it was brushed aside as not having been raised in the lower court and even if it was to be considered it could not be considered as evidence since a Judge could not be held for his general statements. Petitioner invites the attention of this Court to the assertion that additional evidence could not be considered at the appeal level and Petitioner points out that this is contrary to IN RE Matters of Union Leader Corp., Petitioner (292 F2d 381 (1961) 1st Cir 1961 when the Judge stated "While statute permits filing of only one affidavit of bias or prejudice of judge, to the extent that further material in unrelated case might indicate judge's state of mind regarding events set forth in affidavit involved, we think we may properly

consider it (See L A Trust Deed & Mortgage EX vs Security Exchange Commission 285 F2d 162, 173 9th Cir 1960). In this case L A Trust Deed & Morgage Ex. vs Security Exchange Commission the Judge considered and ruled on the merits of an affidavit of bias that was presented to him at the appeal level and that had not been considered by the District Court. Petitioner also invites this Court's attention to the assertion by the Court of Appeals that even if it were before the Court properly on appeal the general statements made by Judge Rafeedie do not support the showing of personal bias that is required for disqualification (Wood v McEwen 644 F2d at 802). The only similarity between this case and Petitioners is that both Wood and Petitioner appeared IN PROPRIA PERSONA. Petitioner now points out to this Court that Rafeedie, Cheshire and Smith are "asshole buddies" from way back. This is what the record shows. In addition the evidence submitted

to the Court of Appeals - namely the excerpt from the Los Angeles Daily Journal was not just a general statement. This was an in depth interview given in Rafeedie's chambers to Reporter Don J. DeBenedictis on February 16, 1982 - six (6) weeks after Petitioner had met with Rafeedie at a Mandatory Status Conference which occurred on the same day as a Motion To Disqualify u Judge Edward Rafeedie had been heard. This excerpt shows a specificity of personal bias against Petitioner. Fuller, one of the greatest of grammatarians says - "A man's bias is indicated by not what he says he thinks about what he says but by what he feels about what he thinks he says." As for the substantiality of the evidence namely the newspaper article Petitioner invites this Court to Harry Lewis v Henry Curtis et al 671 F2d 779 (1982) 3d Circuit when the Judge rules reliance on Wall Street Journal article could be basis for verification of stockholder

deriative complaint. (Fed Rules Civ P. 23.1 28 USCA) "Reliance on an article in the Wall Street Journal is not reliance on an unsubstantial or meaningless investigation. Plaintiffs and their attorneys need not make further expenditures to prove independently that which may be read with some confidence of truthfulness and accuracy in a respected financial journal."

Petitioner points out again to this Court that the Los Angeles Daily Journal is the "official" paper of the District Court and the legal profession. Finally, Petitioner invites the attention of this Court to the dissenting opinion of Circuit Judge McKay in (Verniero v Air Force Academy Sch Dist #20 - 705 F2d 388 (1983) relating to the comments of a Judge in a Title VII Case: Before making his oral findings of fact and conclusions of law, the trial judge made the following remarks - not as a party of any findings of fact or any conclusions of law - but purely as a pre-

liminary matter.:

"The courts of the United States of America today, because of the requirements imposed upon the courts by Congress, are for some reason supposed to be experts in everything. And I fear that the judges of the United States of America qualify as experts in very few things. But what Congress has done is that every time Congress gets a difficult problem it passes the buck to the Courts. And most assuredly, I am no expert in matters such as this. All I know is that federal courts of this country are totally burdened with discrimination cases of every type, nature and description. And, indeed, if certain provisions of the criminal code were applicable to these cases, I would be tempted to enforce them. The provision I have in mind is in Title XVIII, which is the criminal code, and it's Section 4244 of the criminal code. The section says that when the Court has reason to question the sanity of a defen-

dant, the Court must order a mental examination. And I wonder, if that section were applicable, if every school board member in the United States shouldn't be ordered examined under Section 4244. I don't know why anyone would serve on any school board. But the only way I know that any school board member or employer can absolutely be sure of avoiding discrimination cases is to hire only handicapped females having as grandparents a Black, a Chicano, an American Indian and an Oriental, who is over 50 years of age. I think that takes care of all of the discrimination statutes."

Circuit Judge McKay's dissenting opinion in response to these remarks is as follows: "Beyond the issues raised under Mohammed, the decision of the district court is rendered suspect by inappropriate statements from the bench by the trial judge. The judge prefaced his oral findings of fact and conclusions of law with statements disparaging Congress, Title VII, and liti-

gants in employment discrimination cases. His statements displayed a clearly hostile attitude toward Title VII, a statute that he is obligated to interpret and enforce. In my view, the judge's statements provide strong grounds for questioning his impartiality. They are particularly inappropriate in a case where he must make factual findings concerning motivation and intent - issues that are not amenable to objective verification. If courts are to retain public confidence that they can adjudicate these questions fairly, judges must conduct themselves in a manner that casts no doubt on their impartiality. This court has long recognized the importance of judicial impartiality, holding that appellate courts have an inherent power to assure the absence of bias in the district courts. Texaco, Inc. v Chandler, 354 F2d 655, 657 (10th Cir. 1965), cert denied, 383 U. S. 936, 86 S.Ct. 1065, 15 L.Ed 2d 853 (1966); see United States v. Ritter, 540 F2d 459

(10th Cir) cert. denied, 429 U. S. 951, 97 S Ct. 718, 9 L.Ed 2d 722 (1963); United States v. Ritter 273 F2d 30 (10th Cir 1959) cert denied, 362 U. S. 950, 80 S.Ct. 863, 4 LEd 2d 869 (1960). Recently, Congress has recognized that the appearance of impartiality in maintaining public confidence in the judiciary. In this regard, Congress codified the American Bar Association's standard of judicial conduct, imposing upon the federal judge the affirmative obligation to disqualify himself "in any proceeding in which his impartiality might reasonably be questioned." 28 U.S.C. 455(a) (Supp. V. 1981) (codifying Canon 3 C of the ABA Code of Judicial Conduct). I believe that the district judge's statements in the instant case are flatly inconsistent with the impartial demeanor required by the statute. Moreover, they express a totally inappropriate hostility toward the law he is charged to apply. Even if no other question of error were presented

these statements would raise colorable grounds for granting a new trial. In this case, there exists serious doubts that the correct legal standard for determining employment discrimination was applied. Given these doubts and given the intemperate remarks of the trial judge, I believe we should vacate the judgment and remand the case for a new trial."

Petitioner Esther C. Monzello points out to this Court that Judge Cynthia Holcomb Hall certified a fraudulent transcript of the hearing on January 3, 1983 based on this "Motion To Disqualify Judge Edward Rafeedie" to the Court of Appeals (App. D146 thru 149) and when Petitioner with the approval of Judge Farris (App.A17 thru 18) of the Ninth Circuit Court of Appeals filed a Motion To Correct Record of this hearing (Doc #127) under the provisions of FRAP 10(e) to Judge Hall, Judge Hall ordered the hearing that was set for Monday, May 7, 1984 off calendar and abus-

ing her discretion ordered "no oral argument" and ordered that Petitioner's motion be denied as "frivolous" and utterly without merit (Doc #135; App. A19 thru 20 and App.D123)

Petitioner Esther C. Monzello specifically demands that this Court grant a writ of certiorari in this case since the enforcement of Rule 37 of the Federal Rules of Civil Procedure as interpreted by this Court's rulings in National Hockey League et al, Petitioners vs Metropolitan Hockey Club Inc., et al 427 US 639, 49 L Ed 2d 747, 96 S Ct 2778) is inconsistent with Petitioner Esther C Monzello's constitutional right under the Seventh Amendment to the Constitution; Title 29 United States Code Section 626(c); Rule 38(a) of the Federal Rules of Civil Procedure and the Declaration of Independence - 1776.

Esther C. Monzello

Esther C. Monzello